

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEITH ELLIS,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No. 05-286 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on October 3, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 24], filed on June 29, 2006, recommended that Defendant's motion to dismiss or, in the alternative, motion for summary judgment [Doc. No. 16] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. Objections were filed by Plaintiff on August 3, 2006 [Doc. 29]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 23rd day of August, 2006;

IT IS HEREBY ORDERED that the Defendant's motion to dismiss or, in the alternative, motion for summary judgment [Doc. No. 16] is GRANTED;

The Report and Recommendation [Doc. No. 24] of Magistrate Judge Baxter, filed on June 29, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge